



DIALOG
 The periodic bulletin
 from
 The Arizona Department of Real Estate
 May 2007
 Volume 33 – Issue 2



Did you know that Arizona law governing Subdivision Public Reports applies to developments in Mexico if they are marketed or sold in Arizona? If a licensee in Arizona sells property that is subject to the Public Report laws and the property does not have a Public Report the licensee is subject to possible disciplinary action by the ADRE. Requirements for a Public Report include advertising OR selling property in Arizona. Here are some examples of illegal activity because of no Public Report. If the licensee conducts the sale in this state it is a violation.

- If the licensee advertises the property in this state it is a violation.
- If the licensee advertises the property in this state but meets the client in Mexico and conducts the transaction there it is a violation (advertising in AZ).
- If the licensee advertises in Mexico and the client sees the ad but comes to AZ to do the paperwork it is a violation (sale in AZ). Referral to a specific project in Mexico that is not in compliance with the Public Report requirements, however, is a violation.
- If the Arizona agent only refers the prospective customer to an agent in Mexico and not to a specific development, that is not a violation.

Commissioner Wercinski promotes an “open dialog” with industry and the consumers by way of Stakeholder Meetings and the Community Outreach and Education (COE) initiative (page 3).

On March 9, 2007 Commissioner Wercinski visited over 50 members of the Southeast Valley Regional Association of REALTORS® This conversation was great!



The ADRE Mission
 The purpose of the department is to protect the public interest through licensure and regulation of the real estate profession in the State of Arizona. (A.R.S. § 32-2102)

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Department of Real Estate promotes "Plain Talk" Initiative



The Department of Real Estate has embarked on an initiative to end any unnecessary confusion to the public and its stakeholders by reviewing all Department forms currently used. Our goal is to provide clarity and consistency to industry, the public and the Department.

Janet Blair, Assistant Commissioner for Licensing, Professional Education and Auditing Division, is heading the committee. If you have any feedback or comments, please contact her at jblair@azre.gov

Instructor Development Workshop Subdividing and Land Splits

Approved instructors who have interest in teaching Sub-division and Land Split Courses are invited to attend this 1/2 day workshop.

Speakers:

Sam Wercinski, Commissioner

Roy Tanney, Assistant Commissioner,
Development Services

Tom Adams, Assistant Commissioner, Investigations

Bill Day, Manager, Development Investigations

Date: June 8, 2007

Location: Arizona Department of Real Estate
2910 N. 44th. Street, 3rd Floor

Time: 9 am - Noon

Please RSVP to: Roy Tanney at rtanney@azre.gov
to ensure adequate course materials and seating
(No CE Credit Awarded)

Take Advantage of a New Free Service Register Your Email Address Today!

Take advantage of an enhanced service offered by the Department of Real Estate by registering your email address today!

Commissioner Wercinski has dubbed this LEAD'EM -- License Expiration Alert Distributed Electronically Monthly. The Department has begun issuing "courtesy notices" to brokers and salespersons reminding them of their approaching license expiration. The email address a salesperson or broker has registered with the Department will be used to provide reminders approximately 90, 60, and 30 days preceding the license expiration date.

The Department has further enhanced this service, adding supervising brokers to the mix: Designated brokers with email addresses will receive notice of licensed employees whose licenses are expiring at these same 90, 60, and 30 day intervals. Using email to provide electronic reminders of upcoming license expirations may reduce the number of late-filed applications, and allows the Department to redirect resources being used in printing and mailing postcards.

Entities with inactive status licenses will not receive an email because there is no designated broker associated with the license. The Department recommends licensees use their personal email addresses in order to retain the connection to the Department if their employer changes.

Licensees can add or change their email addresses by logging on to Online Services at www.azre.gov and choosing Update Personal Information. Industry, the Public and the Department will all benefit.





Community Outreach and Education (COE) Team

Sam Wercinski, Real Estate Commissioner and his staff are visiting your County in March, April, May and June!

Services offered:

- Seminar on proper subdividing
- Assistance with real estate licensing
- Answer questions from the public and industry
 - Settlement conferences*
- Other State Agencies are participating!

* Settlement conferences by appointment only.

Community Outreach & Education Program

March 19th – Yavapai County – Prescott – Quality Inn – 9:30 am to 1:30 pm
March 23rd – Yuma County – Yuma – Health Department – Noon to 4:00 pm
March 26th – La Paz County – Parker – Board of Supervisors' Meeting Room – 10:00 am to 1:00 pm
March 30th – Gila County – Globe – Gila Community Campus – 9:00 am to 1:00 pm
April 6th – Gila County – Payson – Payson Gila Community Campus – 1:00 pm to 5:00 pm
April 9th – Pima County – Tucson – Tucson Association of Realtors Building – 9:00 am to 1:00 pm
April 11th – Pinal County – Florence – Emergency Operations Center – 9:00 am to 1:00 pm
May 10th – Mohave County – Bullhead City – Laughlin Ranch – 1:00 pm to 5:00 pm
May 14th – Coconino County – Flagstaff – Board of Supervisors' Meeting Room – 9:00 am to 1:00 pm
May 23rd – Cochise County – Bisbee – Board of Supervisors' Hearing Room – Noon to 4:00 pm
May 24th – Santa Cruz County – Nogales – County Complex – 9:00 am to 1:00 pm
May 30th – Greenlee County – Clifton – Courthouse Annex – Noon to 4:00 pm

[Click here](#) or go to www.azre.gov for additional information!



Let the Conversation Begin:

A Message from Commissioner Wercinski



Many positive advancements have taken place at the ADRE since Governor Napolitano appointed me on January 11, 2007. I want to share a few with you in my column.

The Department proposed legislation to change the license renewal period from two years to four. Continuing Education hours will increase from 24 to 48 hours and the net fee to renew will decrease. As a former designated broker (DB), I realized there was an opportunity to fix a common oversight in the industry. We wrote legislation that pairs the expiration date of an entity's license (the firm under which sales agents are employed) with the designated broker's license (the person who manages the sales agents). I expect this change to eliminate unintentional unlicensed activity by sales agents when their DB fails to renew the firm's license. Arizona consumers, industry stakeholders and the Department all gain with these pieces of legislation.

On February 1, 2007, I issued a Substantive Policy Statement that allows Licensees to keep their license certificates electronically. These are now available on our public database and brokerages may now use these or paper copies to meet statutory requirements. This single advancement saves thousands of dollars in resources at the Department, provides options to firms that want to go electronic and provides more information to the public about licensees.

I have opened the Department's doors wide to the public and industry. I have regular meetings with stakeholders to exchange ideas and hear proposals. Dialog creates BIGGER success. I am taking department services on the road with our Community Outreach and Education (COE) Initiative. COE Teams will offer educational seminars and Department services while visiting rural communities. I will also gain the benefit of personal interaction with community members and hearing from them.

I remain excited with the opportunities we have in front of us and confident that by working together, Arizona will be the big winner while I serve as your Commissioner. We value ideas and feedback from the public we protect and the industry we oversee. Contact us or even better yet - join us at an upcoming meeting. See our website (www.AZRE.gov) for the schedule.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Sam Wercinski". The signature is enclosed in a simple, hand-drawn oval.

Sam Wercinski, Commissioner



Governor celebrates Arizona-Mexico Bi-National Partnership *Sigs Executive Order, renews support for Arizona-Mexico Commission*

PHOENIX— On the heels of her visit with Mexican President Felipe Calderon, Governor Janet Napolitano demonstrates her continued support for Arizona's premiere cross-border nonprofit organization, the Arizona-Mexico Commission (AMC). The AMC, a public-private partnership organization of which the Governor is the chair, has worked for nearly 50 years to connect communities and change cross-border business through bi-national advances in the public and private sectors of Arizona and Mexico.

At the event, the Governor, AMC members and community leaders marked the Commission's evolution since the inception of their strategic plan, looked ahead at the future of Arizona's relationship with Mexico, approved the AMC board of directors for 2007 and unveiled the new AMC logo and Web site. The Governor signed the AMC Executive Order, renewing her commitment to the AMC mission *to improve the economic well being and quality of life for residents of Arizona by promote a strong, cooperative relationship with Mexico and Latin America through advocacy, trade, net-working and information.*

Learn more about the AMC online and view the site's redesign at www.azmc.org. For media information please contact Juli Michler, Director of Communications and Marketing, at (602) 542-1277, or by e-mail at jmichler@az.gov.

Co-Chair Gary Brasher and Co-Chair Sam Wercinski are in the process of developing the agenda for the Real Estate Ad Hoc Committee meeting at the AMC Plenary Session, Summer, 2007. The Plenary Session will be held in Tucson, Arizona on June 15-16, 2007. Visit the AMC website: www.azmc.org.

Department of Real Estate Acknowledges "Employee of the Month"



Diane Ortega
Lead Customer Service Representative
Licensing Division
March 2007



Jeanne Yawger
Development Representative
Development Services Division
April 2007

"Promoting Mutual Respect"

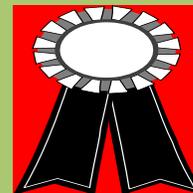
Since the arrival of Sam Wercinski as the Commissioner at the Department of Real Estate, there is a "key" phrase that you will hear resounding throughout the halls. That phrase is "Promoting Mutual Respect."

The phrase has taken on a life of its own. It has gone from mere words into action. We caught ourselves asking "Is my behavior promoting mutual respect?"

As a Department we are working towards the goal of treating employees, the industry and the public with "mutual respect" at all junctures.

One method the Department has chosen to show respect for our employees is to acknowledge the outstanding services they perform on a daily basis.

The Employee-of-the-Month is nominated by his/her peers and chosen for going "beyond the call of duty" in their job performance. The employee chosen receives a Certificate of Appreciation and the use of a reserved parking spot for one month. In addition, they are "highlighted" on the Department's intranet.



A Better Way to Practice Real Estate Learning Through the Mistakes of Others

Commissioner Wercinski and the Arizona Department of Real Estate are dedicated to serving and protecting the public. We know this goal can be achieved more successfully by educating consumers and working with industry stakeholders. To advance this objective, we have revised how compliance actions are reported in the Bulletin.

The Department now lists the number of actions by category versus each one individually. The goal is to alert the public and licensees of problem trends impacting Arizona's real estate industry. Working together, consumers, the industry and the Department can focus on countering these trends.

To inform you and protect you from individuals and entities that have lost the right to legally practice real estate in Arizona, we will continue to publish their names and alleged or determined violations. This includes license suspensions, revocations, and Cease and Desist Orders.

The Department is also providing details of concluded cases in each Bulletin for educational purposes. Highlights will give sufficient information so that you can strengthen your real estate practices by learning from others' mistakes. And if you have an example or input that would benefit consumers and real estate professionals, please share it with us. We would like to include it in a future edition. Here are the first cases to be featured.

Case #1

A licensee, who was also the buyer in the transaction, negotiated a real estate purchase contract showing that he would deposit \$2,000 in earnest money to escrow upon acceptance of the offer. The licensee/buyer and seller signed the sales contract on May 18, but the licensee never opened escrow. The licensee faxed a cancellation letter to the seller on May 23.

The seller contacted ADRE with a complaint against the licensee for failing to open escrow. Whether the seller was entitled to the earnest money was a matter considered beyond the Department's authority. ADRE did, however, consider the fact that the licensee never opened escrow within the five (5) calendar days after an accepted contract had been received. Take a moment to read A.R.S. §§ 32-2153(A)(15), 32-2151(A) and 32-2151.01(D) (**click on each statute to view them online or go to www.azleg.gov**). The licensee was in clear violation of these statutes designed to protect a buyer's earnest money.

To settle the case quickly so that he could resume practicing real estate, the licensee agreed to a consent order. He admitted the violations, paid a civil penalty, was placed on a two (2) year provisional license, was required to take an additional six (6) hours of CE (in addition to those required for renewal) and was ordered to remain law abiding.

Case #2

A broker conducting property management activity was the subject of a random audit by the Department. Auditors discovered the broker failed to deposit into the brokerage's trust account those funds entrusted to the broker by and for others. Further, trust account funds and the broker's funds were commingled in excess of the \$500 maximum limit permitted by A.R.S. § 32-2151(B)(2). This mismanagement resulted in an \$11,000 shortfall in the trust account.

The broker violated A.R.S. § 32-2153(A)(21), failure to supervise, A.R.S. § 32-2153(A)(22), negligence, and A.R.S. § 32-2151(B)(1) and (2), failure to meet the minimum requirements for a broker's trust account (**click on each statute to view them online or go to www.azleg.gov**). To the brokers benefit, he did repay the \$11,000 immediately upon discovery of the shortage.

The broker entered into a consent agreement. He admitted the violations, paid a civil penalty, was placed on a provisional license for two (2) years, was restricted from acting as a Designated Broker during the term of the provisional license, was required to attend twelve (12) hours of CE (in addition to those required for license renewal), and was ordered to remain law abiding.

Total Disciplinary Actions Resolved through Consent Orders, Accelerated Settlement Agreements and Issuance of Provisional License
January-March 2007

Violation Types

Convictions	58
Failure to Disclose in a Timely Manner	21
Unlicensed Activity	12
False Application	10
Advertising Count	5
Unlawful Sales (Development)	5
Failure to Supervise	4
Other Violations	4
Dishonest Dealings	3
Incomplete Records	2
Breach of Fiduciary Duty	1
Failed to Deal Fairly	1
Other Jurisdiction Sanction	1
Property Management Irregularity	1
Trust Account Irregularities	1
Total Actions	129

Enforcement and Compliance

in alpha order by type of action

Name Jose Antonio "Tony" Aguilar
Location: Tempe, Arizona
License SA502179000
Summary Respondent convicted of felony Aggravated DUI, place on 3 years probation.
Order Date March 12, 2007
Action Summary Suspension of License

Name Thomas Frank Bourdo, Jr.
Location: Tempe, Arizona
License SA537882000
Summary Respondent convicted of felony Attempted Child Molestation and Child Abuse. Sentenced to ten (10) years imprisonment and placed on life time probation.
Order Date January 19, 2007
Action Summary Suspension of License

Name Herbert V. Hughes
Location: Avondale, Arizona
License SA526952000
Summary Respondent diverted client's earnest money to personal use. Failed to respond to repeated requests for information and documentation from Department staff.
Order Date January 17, 2007
Action Summary Suspension of License

Name Marijohn Kirkland
Location: Gilbert, Arizona
License SA562176000
Summary Respondent removed property from a client's residence and did not return it. Respondent failed to respond to Department requests for information and documents.
Order Date January 19, 2007
Action Summary Suspension of License

Name Gary Monteforte
Location: Scottsdale, Arizona
License SA106893000
Summary Provided property management services without employing broker's authorization. Received compensation for providing property management services that did not come through employing broker.
Order Date January 8, 2007
Action 90 day license suspension, \$5,000 civil penalty, 12 hours CE in Commissioner's Standards, 2 year Provisional License with Practice Monitor.

Name Tiffani Nelson
Location: Scottsdale, Arizona
License SA514253000
Summary Respondent not able to comply with terms of previous Consent Order.
Order Date February 14, 2007
Action Revocation of License

Name Cheri Underwood
Location: Tucson, Arizona
License SA 102836000
Summary Respondent submitted a license renewal application with CE credits that were used for a previous renewal period. As such, Respondent submitted a misleading application and failed to complete CE credits as required.
Order Date February 26, 2007
Action Suspension of License until providing acceptable proof of completion of education credits, \$500 Civil Penalty, 6 hours additional CE in Commissioner's Standards.



Reminders



To report a violation or file a complaint:
smokefreearizona.org

1-877-4-AZNO-SMOKE
1-877-429-6676

Smoke Free Arizona is an ADRESM 40101

ADRE's On-Line License Renewal System is Secure.

Not only is it convenient and easy, the On-Line ADRE License Renewal System is a secure site that uses industry standards implemented by IBM that meet State of Arizona standards for securing and transferring personal information over the Internet.

Payment and other screens handling sensitive information utilize encryption to keep your personal information safe.

Click here for
"Online Licensing" Link

"SAVE TIME-RENEW ONLINE"

Prop 201 became law May 1, 2007

Visit the **Smoke Free Arizona** website for a thorough explanation of what Arizona businesses will need to do to comply with the law. It also lays out the procedure for reporting any employer that is in violation.

www.smokefreearizona.org

Check out the **F.A.Q.**
(Frequently Asked Questions)
link on the new
ADRE web site !

www.AZRE.gov

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JANET NAPOLITANO
Governor

DEPARTMENT OF REAL ESTATE

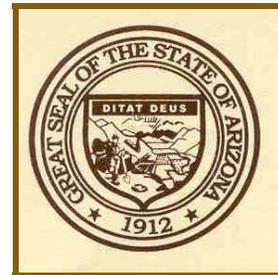
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May 2007



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